

**THE HON'BLE SRI JUSTICE N.V. RAMANA**

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**W.P. No. 27136 of 1998**

**Oral order:**

The petitioner has filed this writ petition assailing the proceedings dated 20.05.1998 issued by the 2<sup>nd</sup> respondent rejecting the case of the petitioner for his absorption as Cleaner, as illegal and arbitrary, and consequently, seeks a direction to the respondents to absorb him as Cleaner in terms of Circular No. PD-114/88, dated 26.10.1988.

The affidavit filed by the petitioner in support of the writ petition does not indicate as to in what capacity he worked with the respondents, what are his qualifications, since when and for what period he had worked with the respondents, and whether he worked for the respondents directly or through the contractor. However, the learned counsel for the petitioner, advanced the following arguments:

The learned counsel for the petitioner submits that as the respondents did not regularize his services, the petitioner raised an industrial dispute in I.D. No. 5 of 1993, and against the award passed therein, he filed writ petition in W.P. No. 2088 of 1996, which by order dated 17.10.1997 was disposed of by a Division Bench of this Court, directing the respondents to consider the case of the petitioner for absorption, if he has completed 240 days of service. While so, the respondents issued notification dated 02.08.1998 inviting applications for the posts of Cleaners, and in pursuance of the said notification, he submitted his application, but the respondents without considering his case in terms of the judgment of the Division Bench, rejected his case in terms of the impugned order. He submits that the petitioner does not

possess I.T.I., and even though the petitioner does not possess I.T.I. qualification, yet he is entitled to be considered for absorption in terms of Circular No. PD-114/88, dated 26.10.1988, whereunder 50% of the vacancies are earmarked for non-ITI candidates, and the action of the respondents in rejecting his case for absorption of his services as Cleaner is illegal and arbitrary.

Heard the learned counsel for the petitioner, and the learned Standing Counsel for the respondents, who advanced his arguments, based on the counter filed by the respondents.

The petitioner admittedly, submitted his application in pursuance of the notification dated 02.08.1998, and though he contends that the respondents could not have rejected his case for absorption in view of the judgment dated 17.10.1997 of the Division Bench of this Court in W.P. No. 2088 of 1996, the fact remains, the Division Bench did not disturb the award of the Labour Court, which recorded a finding that the petitioner failed to prove that he completed 274 days of service as claimed. However, without disturbing the said finding and without setting aside the award of the Labour Court, the Division Bench of this Court merely directed the respondents that if the petitioner has served for more than 240 days, even though as a casual labour, then his case be considered for appointment in a suitable post. The petitioner having failed to prove that he worked for more than 240 days, is not entitled to claim absorption of his services in terms of the judgment of the Division Bench of this Court.

As can be seen from the material, the petitioner though claimed that he worked for 274 days during 1982-83, it is the specific case of the respondents that when then constituted a Departmental Selection Committee, for recommending the cases of absorption of candidates who completed 240 days, the petitioner who claimed that he had

worked for 274 days, did not attend for the interview before the Departmental Selection Committee, and therefore, he was not selected. Had the petitioner, turned up for the interview before the Departmental Selection Committee, may be the respondents would have considered his case for absorption in terms of Circular No. PD-114/88, dated 26.10.1988.

The petitioner, admittedly is a non-I.T.I. Though the petitioner contends that as per Circular No. PD114/88, dated 26.10.1988, he being a non-I.T.I, is entitled for absorption of his services in the 50% vacancies earmarked for non-ITI candidates thereunder, it is the specific case of the respondents, which is evident from the counter filed by them, that the said circular was issued for filling up of the sanctioned vacancies that existed then, and that it is not applicable to the present notification dated 02.08.1998. The petitioner, admittedly, submitted his application for appointment as Cleaner, in pursuance of the notification dated 02.08.1998. As per the said notification, the candidates should be an I.T.I. candidate having done apprenticeship with the respondents. The petitioner, who admittedly does not possess I.T.I. and did not do apprenticeship with the respondents, is certainly not qualified to be appointed as Cleaner, as per the notification dated 02.08.1998. Since the petitioner did not possess the requisite I.T.I. qualification and did not do apprenticeship with the respondents, the respondents have rejected his case for absorption of his services as Cleaner, and rightly so. In that view of the matter, it is held that the petitioner is neither entitled for absorption of his services in terms of the judgment dated 17.10.1997 of the Division Bench of this Court nor as per Circular No. PD-114/88, dated 26.10.1998.

The writ petition is devoid of merit, and the same is accordingly dismissed. No costs.

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**N.V. RAMANA, J.**

**Dated: 12<sup>th</sup> September, 2007.**  
**KSR**